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VIA E-FILING

Hon. Michael J. Davis
United States District Court
District of Minnesota
300 South Fourth Street
Minneapolis, MN 55415

Re: *Minnesota Voters Alliance, et al. v. City of Minneapolis*,
Civ. No. 20-CV-02049 (MJD/TNL)

Dear Judge Davis:

I write on behalf of Defendant City of Minneapolis to alert the Court to recently issued supplemental legal authority that is relevant to several issues raised in the above-captioned matter. The case, *Carson, et al. v. Simon.*, Case No. 0:20-cv-02030 (NEB/TNL) (D. Minn. Oct. 11, 2020) was entered yesterday, two days after the City filed its opposition to Plaintiffs' motion for a temporary restraining order enjoining it from using a grant from a nonpartisan civic-engagement nonprofit to cover election-administration expenses during an ongoing pandemic. At the time of this letter, *Carson* had not yet been published on Westlaw; therefore I attach a copy for ease of reference.

Had *Carson* been issued before the City filed its opposition to Plaintiff's motion, the City would have cited *Carson*'s persuasive authority on the following subjects:

- Explaining that Plaintiffs' allegations that the counting of ballots received after Election Day, pursuant to a consent decree entered in a state-court Equal Protection challenge by voters who feared they would be disenfranchised by mail delays, did not support a finding of injury-in-fact on a theory of vote dilution. *See id.* at 21-24 (plaintiffs "have not explained, for instance, why the principles underlying standing in racial gerrymandering cases (where a state legislature or redistricting committee takes affirmative action that dilutes or restricts the votes of a specific minority population) should extend

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to the present case, where the official action (entry of the Consent Decree Order) expands voting rights for all.”).

- Acknowledging the principle articulated in *Purcell v. Gonzalez*, 549 U.S. 1 (2006) that district courts should be wary of changing the rules of elections near Election Day,” and recognizing that the requested injunction “may well violate *Purcell*. *Id.* at 26 n.14.
- Describing the failure to plausibly allege future injury relating the election outcome because such injuries were necessarily “conjectural and hypothetical.” *Id.* at 33-34 and nn. 19-20.
- Declining to consider the *Dataphase* factors because plaintiffs lacked Article III standing. *Id.* at 37-38.

Pursuant to Local Rule 7.1, I have obtained permission from chambers to file this letter drawing the Court’s attention to this new judicial decision. Thank you for your consideration.

Very truly yours,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

/s/ Kristen G. Marttila

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Enclosure
KGM/seg